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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,442	03/15/2002	Bernard Danner	1999CH020	1768

25255 7590 03/30/2004

CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE, NC 28205

EXAMINER

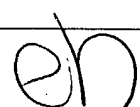
EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/088,442	DANNER ET AL.	
	Examiner	Art Unit	
	Margaret Einsmann	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-11, 13, 15-20, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11, 13, 15-20, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/22/03</u>  | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

Applicant's amendments have been entered and his remarks carefully considered. The pending claims are 1-11, 13, 15-20, 25 and 26.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11, 13, 15-20, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant has made a concerted effort to address the 112 rejections of the previous action, some problems still remain. The relationship between T and P<sub>A</sub> is still indefinite. Are T and P<sub>A</sub> applied together? Sequentially? Is P<sub>A</sub> part of a composition comprising (T)? Is P<sub>A</sub> applied before or after T or is it applied in combination with (T)? In the definition of A<sub>1</sub>, what is the meaning of "otherwise?"

In the definition of A<sub>2</sub>, the term "< 95%" is open ended and accordingly indefinite.

The definition of E as compounds which are "suitable for the endcapping of the polyamides" is indefinite.

There is no antecedent basis in claim 11 for the additional components recited in claim 13.

Regarding claim 15, the process step is unclear because since it is an exhaust process, is not (P<sub>A</sub>) exhausted into the textile substrate?

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Regarding composition claims 11-13, 16-20, 25 and 26, all of the components must be defined. Claim 3 is a process claim. Accordingly claim 11 is improperly dependent on claim 3 since a claimed composition cannot further limit a process.

Accordingly P<sub>A</sub> must be defined in claim 11,

W', P<sub>A</sub>, F, G, X, Y and Z must be defined in claim 16.

Regarding claim 18, it is improperly dependent on claim 17 because claim 17 claims **an alkane dicarboxylic acid, a diamine (A<sub>1</sub>) and a diamine (A<sub>2</sub>)** while claim 18 claims **at least one of each**.

Regarding claim 19, it is confusing as written, as it contains "optionally" and and/or more than once making the scope of the claim unclear.

The warning regarding double patenting is withdrawn since applicant has canceled the redundant claims.

The rejection of the Claims under 35 U.S.C. 102(b) as being anticipated by Imperial Chemical Industries Limited, GB 1,108,811 is withdrawn due to applicant's amendment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13, 16-20, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imperial Chemical Industries Ltd, GB 1,108,811.

Condensation products of a dicarboxylic acid with a mixture of a diaminopolyalkyleneoxy and an aliphatic, cycloaliphatic or aromatic diamine and aqueous compositions thereof are disclosed for use in treating textile piece goods, which are the claimed compositions comprising  $P_A$ . See page 1 lines 13 et seq. Claim 1 of the patent includes the lubricant as claimed in claim 11. Page 2 lines 20 et seq define the diaminopolyalkyleneoxy compound as comprising a mixture of ethyleneoxy and propyleneoxy groups. Page 3 lines 49-62 disclose the limitation of claims 17-18 of the proportions of the two diamines  $A_1$  and  $A_2$ . The following paragraph on page 3, lines 63 et seq. teaches their solubility or dispersibility in aqueous media. The examples disclose aqueous compositions containing additives as claimed. The addition of thickeners, starch or hydroxyalkyl cellulose is disclosed on page 4 lines 126,127. Regarding the claims to a process of making the claimed condensation products and compositions, the examples disclose the condensation products being mixed with water and various additives. The use of said materials to treat nylon is disclosed on page 3 lines 71 et seq. The patent differs from the claims because there is no working example of using the condensation polymer as claimed having both oxyethylene and oxypropylene groups in the  $A_2$  component. It would have been obvious to the skilled artisan to use the condensation product as claimed because such condensation products are within the scope of those disclosed by the references.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Lith et al, US 5,837,802. A water sensitive polyamide composition is disclosed which is formed from a dicarboxylic acid, ester or anhydride thereof and diamines, at least one of which is a polyoxyalkylene diamine. See abstract. In the summary of the invention, the reactants which form the polyamide composition are listed, beginning in column 3. Listed are aliphatic diamines (applicant's A<sub>1</sub> reactant), alkanedicarboxylic acids (applicant's B<sub>1</sub> reactant) and polyoxyalkylenediamines including the Jeffamine ED-900 and ED-2001 which have the formula that applicant claims as reactant A<sub>2</sub>. See especially column 4 lines 50-53. On Table 1 several examples are shown. Example 1 comprises two aliphatic diamines, HMDA, which is hexamethylenediamine, and Dytex A which is 2-methylpentamethylene diamine (see col 5 lines 32); EDR-148, which is polyoxyalkylene diamine, and adipic acid, which is hexanedioic acid. That example differs from applicant's claimed polyamide because EDR-148 is not the formula as claimed for the polyoxyalkylene diamine component. It would have been obvious to one having skill in the art at the time the invention was made to formulate compositions containing Jeffamine DR-900 or ED-2001 as the polyoxyalkylene diamine because patentee teaches that they are equivalent to the EDR-148 used in the working examples in the place cited in column 4. See the attached Registry File definition of the Jeffamine ED polymers.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to. whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0994.

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August 29, 2003

*Margaret Einsmann*

Margaret Einsmann  
Primary Examiner  
Art Unit 1751



Attachment:

L5 ANSWER 1 OF 1 REGISTRY COPYRIGHT 2004 ACS on STN

RN 65605-36-9 REGISTRY

CN Oxirane, methyl-, polymer with oxirane, bis(2-aminopropyl) ether (9CI)

(CA INDEX NAME)

OTHER CA INDEX NAMES:

CN Oxirane, polymer with methyloxirane, bis(2-aminopropyl) ether (9CI)

OTHER NAMES:

CN ED 2003

CN Ethylene oxide-propylene oxide copolymer bis(2-aminopropyl)ether

CN Jeffamine ED

CN Jeffamine ED 1001

CN Jeffamine ED 2000

CN Jeffamine ED 2001

CN Jeffamine ED 2003

CN Jeffamine ED 2100

CN Jeffamine ED 3600

CN Jeffamine ED 4000

CN Jeffamine ED 600

CN Jeffamine ED 6000

CN Jeffamine ED 6075

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CN Jeffamine ED 900

CN Jeffamine ED 901

CN XTJ 500

CN XTJ 501

CN XTJ 502

DR 74434-33-6, 78361-88-3, 39433-35-7, 189518-29-4, 211174-41-3, 214482-60-7,

229966-62-5, 281205-57-0

MF C<sub>3</sub>H<sub>9</sub>N O . 1/2 (C<sub>3</sub>H<sub>6</sub>O . C<sub>2</sub>H<sub>4</sub>O)<sub>x</sub>

CI COM

PCT Polyether, Polyether formed

LC STN Files: AGRICOLA, ANABSTR, BIOBUSINESS, BIOSIS, CA, CAPLUS,  
CHEMCATS,

CHEMLIST, CSCHEM, IFICDB, IFIPAT, IFIUDB, TOXCENTER, USPAT2,

USPATFULL

Other Sources: NDSL\*\*, TSCA\*\*

(\*\*Enter CHEMLIST File for up-to-date regulatory information)

CM 1

CRN 6168-72-5

CMF C<sub>3</sub>H<sub>9</sub>N O

CM 2

CRN 9003-11-6

CMF (C3 H6 O . C2 H4 O)x

CCI PMS

CM 3

CRN 75-56-9

CMF C3 H6 O

CM 4

CRN 75-21-8

CMF C2 H4 O

308 REFERENCES IN FILE CA (1907 TO DATE)

174 REFERENCES TO NON-SPECIFIC DERIVATIVES IN FILE CA

309 REFERENCES IN FILE CAPLUS (1907 TO DATE)